

## **IC 36-2-17**

### **Chapter 17. County Records**

#### **IC 36-2-17-1**

##### **Application of chapter**

Sec. 1. This chapter applies to all counties.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-17-2**

##### **Keeping records in offices; delivery to successors; use of permanent ink; violation**

Sec. 2. (a) The county auditor, county treasurer, county surveyor, county sheriff, and county superintendent of schools shall keep in their offices all records that they are required to make and shall deliver them to their successors.

(b) The clerk of the circuit court, county auditor, and county recorder shall use permanent jet-black, nonfading ink when preparing official records in longhand. A person who violates this subsection commits a Class C infraction.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-17-3**

##### **Photostatic recording of documents; force of recording**

Sec. 3. (a) A county officer who is required to record documents may record them by a photographic process if:

- (1) the process is adopted by the county executive; and
- (2) the necessary photographic equipment and supplies are furnished for that purpose by the county executive.

(b) Photostatic recording of documents has the same force as recording of documents by handwriting, typewriter, or handwriting on partly printed pages.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-17-4**

##### **Miniature photographic or microfilm recording of documents; marginal entry or notation; control over film and records; original and duplicate copies; index**

Sec. 4. (a) A county officer may record documents by miniature photographic process or microfilm process if:

- (1) the installation of the process is approved by the county executive; and
- (2) the process provides for an original and a duplicate film copy of each document that the officer is required to record.

The officer shall index and file the original copy in a suitable container in the office where the document is recorded, in such a manner that it is easily accessible and readable by an interested person. The officer shall preserve the duplicate copy in a fireproof vault, either in the courthouse where the office is located or in a place designated by the county executive.

(b) When recording a release, assignment, or other document that

requires a marginal entry or notation on a prior record made under this section, an officer acting under this section shall:

- (1) record the document on the index page of the photographic or microfilm record containing the prior record; or
- (2) index and cross-reference the marginal entry or notation and record it on a separate page attached to or filed with and made a part of the prior record.

(c) An officer recording a document under this section has exclusive control over the film and records in his office, and he may not return an original document to the person presenting it for record until the film copy of that document is properly recorded, indexed, filed, and made available to interested persons.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-17-5**

#### **Preservation of records; copies; control of records**

Sec. 5. (a) If it is necessary to preserve the records of:

- (1) the circuit court clerk's office;
- (2) the county auditor's office;
- (3) the county treasurer's office;
- (4) the county recorder's office;
- (5) the county sheriff's office;
- (6) a court of record; or
- (7) the county surveyor's office;

from damage, the county executive shall order the officer in charge of the records to copy them in suitable books procured by him for that purpose. The executive shall specify in its order the particular records or parts of records to be copied.

(b) If:

- (1) parts of a county's records have been destroyed;
- (2) the remaining parts of the records have been copied to preserve them from damage; and
- (3) the proper holder of the original documents on which the records were based presents those documents to the officer in charge of the records;

the officer in charge of the records shall use the original documents to complete the records, and, if the original index no longer exists, shall index the completed records.

(c) If a map or plat in the office of the county auditor, county recorder, or county surveyor is so worn or defaced that it is not fit for use, the auditor, recorder, or surveyor shall make an accurate copy of the legible part of the map or plat. If a part of the map or plat is illegible, the auditor or recorder shall resort to the most accurate sources to complete the copy.

(d) Copies of records made under this section have the same force as the original records. Certified transcripts of copies of records made under subsection (a) of this section have the same force as transcripts of the original records.

(e) Control of the county recorder's records, including copying, storage, and retrieval is the responsibility of the county recorder.

(f) Control of the county surveyor's records, including copying, storage, and retrieval is the responsibility of the county surveyor.  
*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.231-1989, SEC.13; P.L.276-2001, SEC.8.*

#### **IC 36-2-17-6**

##### **Destruction of records; meetings; list; replacement; appointment of commissioner**

Sec. 6. (a) If records belonging to the county or a court of record in the county are destroyed, the county auditor shall immediately notify the county executive, which shall meet at the time and place specified by the auditor. During the next twelve (12) months, the county executive may hold additional meetings concerning the destroyed records if it finds that such meetings are necessary.

(b) At the meeting held under subsection (a) of this section, after a showing that records of the county or a court of record in the county have been destroyed, the county executive shall order the county auditor to make out and certify a list of all the destroyed records that were furnished by the state under a statute or joint resolution. The auditor shall immediately forward this list to the governor, who shall immediately give notice of the destruction of county records to the state officer whose duty it is to furnish records to the county. That officer shall immediately furnish to the county all records on the list, as if the county had never received them.

(c) At the meeting held under subsection (a) of this section, the county executive shall appoint a person as a commissioner if any of the records of:

- (1) a court of record in the county;
- (2) a clerk of a court of record in the county; or
- (3) a county officer other than the county recorder;

have been destroyed. After taking an oath of office, the commissioner has the powers and duties set forth in section 7 of this chapter.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-17-7**

##### **Destruction of records; powers and duties of commissioner; procedures**

Sec. 7. (a) Before performing any of his duties, a commissioner appointed under section 6(c) of this chapter shall give twenty (20) days notice of:

- (1) his appointment;
- (2) the time when he will begin to perform his duties; and
- (3) the place where he will begin to perform his duties;

by publication under IC 5-3-1 and by posting written notices in each township of the county.

(b) The commissioner may:

- (1) employ a clerk, who shall take an oath of office before performing any of his duties;
- (2) administer oaths when testimony is required to be taken

before him;

(3) issue subpoenas for and compel the attendance of witnesses;

(4) cite persons for and issue execution for contempt;

(5) tax costs; and

(6) adjourn his proceedings from time to time, but after an adjournment without a day specified for reconvening, he may not resume his duties without an order of the county executive authorizing him to do so.

(c) A sheriff who delivers the commissioner's writs and subpoenas and witnesses who testify before the commissioner are entitled to the same fees as are allowed for the same service or attendance in the circuit court. This compensation shall be taxed against the party bearing costs.

(d) The commissioner shall obtain record books in which the proceedings held before him shall be fully recorded. Proceedings concerning the different courts and different offices of the county shall be recorded in separate books.

(e) The commissioner or his clerk may not record proof of the existence and contents of the following records and documents of a clerk of a court of record:

(1) Judgments and decrees.

(2) Writs of execution and returns of writs of execution.

(3) Recognizances and forfeitures of bonds.

The commissioner or his clerk shall record proof of the existence and content of any other record or document that belonged to or was filed or deposited in the office of a clerk of a court of record and has been destroyed, if that proof is presented to the commissioner by a disinterested witness. However, the commissioner may receive proof of the contents of a will only if the evidence leads him to believe that neither the original will nor an authenticated copy can be produced.

(f) The commissioner shall record the complete statement of each witness who testifies before him. The commissioner may not include his own conclusions in the record.

(g) The commissioner shall sign the record of each day's testimony that he hears, and shall certify each completed volume of the record to be a complete and accurate copy of the testimony taken before him. The commissioner shall deliver each completed volume of the record to the appropriate county office.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-17-8**

#### **Destruction of records; force and effect of records or certified copies; removal of commissioner for neglect; expenses**

Sec. 8. (a) Records compiled by the commissioner, or certified copies of those records, are admissible in any legal proceeding and have the force that the same testimony would have if it were delivered orally. Complete or partial copies of a volume of the commissioner's records may be certified by the commissioner if he has custody of the volume; otherwise, the county officer having custody of the volume may certify copies. Certified copies of the

commissioner's record have the same evidentiary force as the commissioner's record.

(b) If the county executive finds that the commissioner is incompetent or that he unreasonably delays or neglects his duties, it may, by an order on the record, remove him from office and appoint a successor. An order of removal is not appealable.

(c) If more than twelve (12) months have passed since the commissioner commenced his duties, the county executive may give him twenty (20) days notice to terminate his proceedings. After twenty (20) days, the duties of his office cease. However, the county executive may subsequently authorize the commissioner to resume his duties for a limited period of time.

(d) All expenses of books, stationery, and per diems under this section and section 7 of this chapter shall be paid by the county.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-17-9**

#### **Destruction of recorder's records; restoration; proof of execution, acknowledgment, or action**

Sec. 9. (a) If all or part of the records of the recorder's office are destroyed, the recorder shall immediately obtain a book in which he shall restore the destroyed parts of the record. The recorder shall, in the order in which they are presented, record in this book documents that had been recorded but the records of which have been destroyed. The recorder shall also record the recorder's original indorsement showing the time when each document was originally filed for record. This new record has the same force as the original record would have had if it had not been destroyed.

(b) Whenever the recorder acts under subsection (a), he shall also obtain another book in which he shall, in the order in which it is presented, record all proof of the execution, acknowledgment, contents, destruction, and recording of documents that had been recorded in his office but the records of which have been destroyed. The recorder shall index this book in the manner in which records of deeds are indexed.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-17-10**

#### **Destruction of recorder's records; statement of person having interest in preserving evidence of document; witnesses; oaths; witnesses' recollections**

Sec. 10. (a) A person who has an interest in preserving evidence of a document, the record of which in the recorder's office has been destroyed, shall make a verified statement before the recorder that:

- (1) he has an interest in preserving evidence of the document;
- (2) the document was previously recorded in the recorder's office; and
- (3) he has searched diligently for the original of the document and has not been able to find it.

After recording the person's statement and requiring him to sign it,

the recorder shall take and record the verified statement of each witness who testifies before him. The recorder may be sworn as a witness by a person authorized to administer oaths.

(b) The recorder shall require each witness testifying under this section to make a verified statement of his interest in preserving his testimony, and shall include this statement in the record. The recorder shall require each witness to sign the record of his testimony and shall add his certificate stating that the witness was duly sworn.

(c) A recorder shall administer all oaths required by this section.

(d) Testimony admissible before the recorder under this section consists of witnesses' best recollections of:

- (1) the execution and acknowledgment of the document;
- (2) the date of the document;
- (3) the contents of the document;
- (4) the prior recording of the document in the recorder's office;
- and
- (5) the time when the document was initially recorded or deposited for record.

(e) The recorder shall record the complete statement of each witness who testifies before him. The recorder may not include his own conclusions in the record.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-17-11**

##### **Destruction of recorder's records; force and effect of record; certified copies; fee for recording**

Sec. 11. (a) A party to a legal proceeding may introduce a record of testimony made under section 10 of this chapter into evidence. Such a record has the same force as oral testimony at the trial by the witness whose statement makes up the record, and it may be excluded, rebutted, or impeached in the same manner in which that oral testimony could be excluded, rebutted, or impeached.

(b) If the recorder certifies that a copy of a record made under section 10 of this chapter is a complete copy of all parts of the record relevant to a document in issue in a trial, the certified copy is admissible in evidence in that trial and has the same force as the original record.

(c) The recorder shall charge half the usual fee for recording a document under section 9 or 10 of this chapter.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-17-12**

##### **Wills, letters testamentary, or letters of administration destroyed; copies; force and effect of record**

Sec. 12. If the record of a will, letters testamentary, or letters of administration is destroyed, and an authenticated copy of the will or letters is presented to the clerk of the proper court, he shall record the copy as if it was the original and shall note on the record the date on which the document was originally recorded. A record made under this section has the same force as the original record.

*As added by Acts 1980, P.L.212, SEC.1.*

**IC 36-2-17-13**

**Bond for guardian, administrator, or executor destroyed; new bond; liability of surety on destroyed bond**

Sec. 13. A guardian, administrator, or executor whose official bond is destroyed in a general destruction of a county's records shall file a new bond with the proper officer within three (3) months after the bond is destroyed. The liability on the new bond commences with its filing in the proper office. Sureties on the destroyed bond are not liable for acts of their principal occurring after the filing of the new bond.

*As added by Acts 1980, P.L.212, SEC.1.*

**IC 36-2-17-14**

**Bond for county officer destroyed; new bond; liability**

Sec. 14. If:

- (1) the official bond of a county officer is destroyed; and
- (2) the county officer receives a written notice of the destruction of his bond from the officer having custody of the bond;

he shall file a new bond with the proper officer within twenty (20) days after he receives the notice. The liabilities on the new or old bond are the same as those prescribed by section 13 of this chapter on bonds of guardians, administrators, or executors.

*As added by Acts 1980, P.L.212, SEC.1.*

**IC 36-2-17-15**

**Public documents in custody of county treasurer destroyed; copies; county tax duplicate; liability of persons charged with tax**

Sec. 15. (a) If public documents in the custody of the county treasurer are destroyed, the officer whose duty it is to furnish those documents shall immediately make new copies of them in the same manner in which they were originally made and shall deliver these copies to the treasurer. A copy made under this section has the same force as the original document.

(b) If a county tax duplicate is destroyed and a copy is supplied under this section, persons charged with taxes on that copy are liable for those taxes unless they:

- (1) produce proper receipts for the taxes; or
- (2) prove to the county treasurer or county executive that the taxes have been paid.

*As added by Acts 1980, P.L.212, SEC.1.*

**IC 36-2-17-16**

**Assessment rolls and tax duplicates destroyed; new assessments and appraisals; proceedings to collect taxes due**

Sec. 16. If the assessment rolls and tax duplicates of a county are destroyed, the county executive shall cause new assessments and appraisals to be made, in the same manner and under the same

regulations that they were originally made, and shall conduct all proceedings necessary to enable the treasurer to collect all taxes due in the county.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-17-17**

##### **Electronic storage medium; retrieved information as evidence of official record; data processing system; duties of recorder**

Sec. 17. (a) As used in this section:

"Book" means a book, register, index, or file that the law requires a county recorder to maintain.

"Electronic storage medium" means a magnetic tape, card, diskette, disk, or other medium on which data may be entered and retained and from which data may be retrieved by the operation of an electronic data processing system.

"Recorded information" means information in any written matter, such as a record, document, plat, or paper, that the law requires a recorder to enter into a book.

(b) The county recorder may substitute an electronic storage medium for any book. For the purposes of admissibility into evidence, printouts or other types of information retrieved from an electronic storage medium in written form shall be treated as an official record in all courts and administrative agencies.

(c) When the recorder substitutes an electronic storage medium for a book, the recorder shall operate a data processing system that during normal business hours allows:

(1) retrieval of recorded information by reference to the same identification number assigned to the written matter that has been recorded, the written matter's date of recording, the name of affected parties, the legal description of affected real property (if any), and any other category of information that the law requires the recorder to maintain in a related index or file; and

(2) reproduction of recorded information in written form.

(d) The recorder shall enter the identification number assigned by the recorder to a recorded matter with the related recorded information being entered into the electronic storage medium. The recorder shall verify the correctness of all recorded information entered into the electronic storage medium and assign security access codes to it that will protect it from alteration. An original of recorded matter may not be returned to the person submitting it before certification and security coding occur.

(e) At intervals determined by the recorder, the recorder shall duplicate the data on an electronic storage medium containing recorded information and permanently store one (1) copy outside the office of the recorder in a secure location that is designated by the county executive and under the exclusive custody and control of the recorder. If either copy is lost or damaged, the recorder may use the other copy to perform his duties.

*As added by P.L.193-1984, SEC.1.*